

# Cash Basis Law

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## (Kansas Statutes Annotated)

**10-1101. Definitions.** The following words, terms and phrases, when used in this act, shall have the meanings respectively ascribed to them in this section, except in those instances where the context clearly indicates a different meaning:

(a) "Municipality" means any county, township, city, municipal university, school district, community college, drainage district and any other taxing district or political subdivision of the state which is supported with tax funds.

(b) "Governing body" means the governing body of a municipality.

(c) "Person" means any person, partnership, association or corporation.

(d) "Claim" means any claim arising on contract express or implied, or a claim determined by final judgment, but shall not include claims arising from alleged tort or negligence on the part of the municipality.

**10-1102. Cash basis for municipalities.** All municipalities are required to pay or refinance their valid indebtedness as in this act provided, in the manner and at the times herein set forth, and to contract no indebtedness after May 1, 1933, except as herein provided. It is hereby declared that the purpose of this act is to provide for the funding and payment of all legal debts and obligations except present bonded indebtedness of all municipalities and for the future conduct of the financial affairs of such municipality upon a cash basis.

**10-1112. Issuance of warrants and other evidences of indebtedness unlawful.** Unless otherwise provided in this act, it shall be unlawful after May 1, 1933, for the governing body of any municipality to create any indebtedness in excess of the amount of funds actually on hand in the treasury of such municipality at the time for such purpose, or to authorize the issuance of any order, warrant, or check, or other evidence of such indebtedness of such municipality in excess of the funds actually on hand in the treasury of such municipality at the time for such purpose.

**10-1113. Creating indebtedness in excess of funds unlawful: exceptions.** Unless otherwise provided in this act, it shall be unlawful after May 1, 1933, for any member of any governing body of any municipality to knowingly vote for or in any manner aid or promote the passage or adoption of any order, motion, ordinance, resolution, legislation or other act of said governing body, creating an indebtedness in excess of the amount of funds actually on hand in the treasury of such municipality at the time for such purpose, or to knowingly vote for the drawing of any order, warrant or check, or other evidence of such indebtedness on the treasury of said municipality, in payment of any such indebtedness, in excess of the amount of funds actually

on hand in the treasury at the time for such purpose. School districts and community junior colleges, may, however, issue cancelable purchase orders for school supplies and equipment, school buses, books purchased in conjunction with textbook rental programs and data processing equipment in advance of the budget year during which moneys will become available to pay for such purposes, but contracts for the purchase of such school supplies and equipment, books, buses and data processing equipment cannot be entered into except during the budget year in which moneys will become available for such purchases and risk of loss and title thereto shall not pass to the school district or community junior college prior to entering into such contracts. Issuance of such a cancelable purchase order shall not constitute indebtedness within the meaning of K.S.A. 79-2935.

**10-1114. Clerks not to issue or sign orders.** Unless otherwise provided in this act, it shall be unlawful after May 1, 1933, for the clerk or secretary of any governing body of any municipality to knowingly issue, attest, sign or countersign any order, warrant, check or other evidence of indebtedness, on the treasury of the municipality, in payment of any indebtedness of such municipality created by the governing body of such municipality in excess of the amount of funds actually on hand in the treasury of such municipality at the time for such purpose.

**10-1115. Treasurers not to pay orders.** Unless otherwise provided in this act, it shall be unlawful after May 1, 1933, for the treasurer of any municipality to knowingly pay any order, warrant, check or other evidence of indebtedness out of the treasury of such municipality in excess of the amount of funds actually on hand in the treasury at the time for such purpose.

**10-1116. Limits of indebtedness may be exceeded, when; creating indebtedness in violation of act unlawful.** (a) The limits of indebtedness prescribed under the provisions of article 11 of chapter 10 of Kansas Statutes Annotated may be exceeded when: (1) Payment has been authorized by a vote of the electors of the municipality; (2) provision has been made for payment by the issuance of bonds or temporary notes as provided by law; (3) provision has been made for payment by the issuance of no-fund warrants authorized by law and in the manner, and limited in amount as prescribed by law; (4) provision has been made for a revolving fund for the operation of any municipal airport financed and sustained partially or wholly by fees, rentals, proceeds from the sale of merchandise or charges for rendering services, received from the users of such airport; or (5) provision has been made for payment pursuant to a service agreement entered into pursuant to K.S.A. 12-5503.

(b) Notwithstanding any other limits of indebtedness prescribed under the provisions of article 11 of chapter 10 of Kansas Statutes Annotated, the following funds shall have as a limit of indebtedness

an amount equal to 100% of the accrued revenue of the current fiscal year plus any balances carried forward, cash reserves, intergovernmental grants, and sums advanced to qualify for intergovernmental grants; (1) Special recreation facilities reserve funds set up by any board of park commissioners or any municipality for a revolving fund for the repair, replacement or addition to recreation facilities; (2) enterprise funds set up in any municipality to account for the financing of self-supporting activities of governmental units which render services on a user charge basis to the general public, such as municipal utilities engaged in the provision of water, electricity and natural gas and sanitary sewer systems which are financed by user charges; or (3) intragovernmental service funds or working capital funds established in any municipality to finance and account for services and commodities furnished by a designated agency of a governmental unit to other departments of the same governmental unit such as funds established for central garages and motor pools, central printing and duplicating services and central purchasing and stores departments.

The board of education of any school district, the board of regents of any municipal university or the board of trustees of any community college may enter into contracts for teachers and other necessary employees and for continuing operating expenses in excess of the amount of funds actually on hand for that purpose.

The limit of indebtedness provided by this section shall never exceed 100% of the amount actually expended for school purposes for the last preceding fiscal year during which school was conducted.

(c) It shall be unlawful for any member of the governing body of any municipality, as defined in K.S.A. 10-1101, and amendments thereto, to knowingly vote for or in any manner aid or promote the entering into of any contract or the creation of any other indebtedness in violation of the provisions of this section.

**10-1116a. Exemptions from cash basis law; municipal utilities; issuance of no-fund warrants; drought emergencies.** The provisions of this act shall not apply to expenditures in excess of current revenues made for municipally owned and operated utilities out of the fund of such utilities, caused by, or resulting from the meeting of, extraordinary emergencies including drought emergencies. In such cases expenditures in excess of current revenues may be made by declaring an extraordinary emergency by resolution adopted by the governing body and such resolution shall be published at least once in a newspaper of general circulation in such city. Thereupon, such governing body may issue interest bearing no-fund warrants on such utility fund in an amount, including outstanding previously issued no-fund warrants, not to exceed 25% of the revenues from sales of service of such utility for the preceding year. Such warrants shall be redeemed within three years from date of issuance and shall bear interest at a rate of not to exceed the maximum rate of interest prescribed by K.S.A. 10-1009, and

amendments thereto. Upon the declaration of a drought emergency, the governing body may issue such warrants for water system improvement purposes in an amount not to exceed 50% of the revenue received from the sale of water for the preceding year. Such warrants shall be redeemed within five years from the date of issuance and shall bear interest at a rate not to exceed the maximum rate of interest prescribed by K.S.A. 10-1009 and amendments thereto.

**10-1116b. Lease, lease-purchase or installment-purchase agreements; agreements for electric interconnection or transmission facilities; when allowed under cash-basis law.**

Nothing in the provisions of K.S.A. 10-1101 et seq., and amendments thereto, shall prohibit a municipality from entering into

(1) an agreement to pay for electric interconnection or transmission facilities or service, (2) a lease agreement, without an option to buy, or (3) a lease-purchase agreement, if any of such agreements specifically state that the municipality is obligated only to pay periodic payments or monthly installments under the agreement as may lawfully be made from (a) funds budgeted and appropriated for that purpose during such municipality's current budget year or (b) funds made available from any lawfully operated revenue producing source. For the purpose of this act, a lease-purchase agreement shall include a lease with an option to buy or an installment-purchase agreement.

**10-1116c. Lease-purchase agreements; conditions; protest petition and election, when.** Any lease-purchase agreement entered into pursuant to this act shall be subject to the following conditions:

(a) If the proposed agreement is for a term exceeding the current fiscal year of the municipality, it shall be approved by a majority vote of all members of the governing body.

(b) If the proposed agreement involves the acquisition of land or building, is for a term of three or more years, and provides for payments in any year in excess of 3% of the total amount budgeted by the municipality for expenditure during the current year, excluding debt service, a notice thereof specifying the purpose and the total of all payments shall be published once each week for two consecutive weeks in a newspaper of general circulation with such municipality. If, within 30 days following the last publication, of such notice, a petition in opposition to the agreement signed by not less than 5% of the qualified voters of such municipality is filed with the appropriated county election officer, no such agreement shall take effect unless and until the same is approved by a majority of the qualified voters of such municipality voting at an election thereon. Any such election shall be called and held in accordance with the provisions of K.S.A. 10-120, and amendments thereto, or in accordance with the provisions of the mail ballot election act.

(c) If the proposed agreement is for a term exceeding the current fiscal year of the municipality, the agreement shall specify the

following: (1) The amount or capital cost required to purchase the item if paid for by cash, (2) the annual average effective interest cost, and (3) the amount included in the payments for service, maintenance, insurance or other charges exclusive of the capital cost and interest cost.

**10-1117. Clerk or secretary; record of moneys; contracts and indebtedness of municipality; records of orders, warrant checks; exhibition of records upon request; notice.**

The clerk or secretary of every municipality shall keep a record of the amount of money in the treasury and each particular fund and shall keep a record of all indebtedness and contracts creating a liability against the municipality. In such, records there shall be shown the date of the making of the contract or the creation of the debt, the amount of the contract or debt, the time payable, and the particular fund from which payment is to be made. Such clerk or secretary shall also keep a record of each order, warrant check or check, drawn on the treasury and paid, giving the date of payment. Such clerk or secretary shall, upon the request of any person, exhibit such records to such person and any person contracting with the municipality shall be chargeable with knowledge of what such records contain.

**10-1118. Treasurer; record of moneys on hand and in each fund; exhibition of record or statement in writing.** The treasurer of every municipality shall keep a record of the amount of money on hand in the treasury, which record shall show at all times the amount of money in each particular fund. Such treasurer shall, upon the request of any person, exhibit such record to such person or give such person a statement in writing, showing the balances on hand in each of the funds of the municipality.

**10-1119. Void contracts and orders.** Any contract entered into between the governing body of any municipality and any person, which violate the provisions of this act, shall be void, and any order, warrant, check or other evidence of indebtedness drawn on the treasurer of any municipality in violation of the provisions of this act shall be void.

**10-1120. Excess tax levying not basis of protest.** The levying of a tax by any municipality which raises more money than is used or needed for the tax year shall not be basis of a protest by any taxpayer and all such protests shall be of no force or effect.

**10-1121. Penalties for violations.** Any member of any governing body of any municipality or any clerk or secretary or treasurer of any governing body of any such municipality who shall knowingly violate any of the provisions of this act shall be guilty of malfeasance in office and shall, by such violation, be subject to be removed from office and in addition any member of such governing body or clerk or secretary or treasurer of such municipality who shall violate any of the provisions of this act, or neglect or refuse to perform any duty herein imposed, shall be

deemed guilty of a misdemeanor, and upon conviction thereof in a court of competent jurisdiction shall be subject to a fine of not less than \$10 nor more than \$1,000.

**10-1122. Invalidity of part.** Should the courts declare any section, clause or provision of this act unconstitutional, the decision shall affect only the section, clause or provision so declared to be unconstitutional, and shall not affect any other section, clause or provision of this act.